
The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees

JULY 1998



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Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at the above address or via e-mail at:
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Legislative Changes: effective July 1, 1998

The General Assembly passed new legislation, which went into effect July 1, 1998. The 1998 Supplement has been sent to all licensees and should be referred to until the law book is reprinted. Since this is an even-numbered year, a new booklet will be printed, so keep an eye out for it sometime in September. The following is a brief summation of some of the law changes that affect consumer finance and mortgage licensees:

§6.1-298 was amended to require the Commission to examine consumer finance licensees at least once in every three-year period.

§6.1-300 was amended to allow consumer finance records to be maintained at approved locations outside the Commonwealth. It also allows books, accounts and records to be maintained in non-paper form (disk, tape, optical imaging) with the Commission's approval, provided the records can be converted to legible paper documents within a reasonable period of time. Loan records must now be retained for at least three years. If notes and/or security are hypothecated, licensees must notify the Commission of the identity and location of the person holding such paper. If consumer finance records are examined outside the Commonwealth, the licensee must pay all reasonable costs of the examination.

§6.1-330.72 was amended to allow for closing fees to be paid to settlement agents (as defined by §6.1-2.20 of the Code of Virginia) in connection with subordinate mortgage loans. Please note: a lender who closes his own loans (as opposed to using a third party to handle the settlement) does not fall under the definition of "settlement agent" as set forth in §6.1-2.20. Thus, a settlement fee or closing fee can be charged to a borrower in connection with a subordinate mortgage loan only if it is a fee paid to a third party. Lenders who close their own loans cannot charge and retain a closing fee. In addition, a borrower may now be charged a fee (actual cost) to determine if the property is located in a special flood hazard area and a prepayment penalty may be contracted for, with certain conditions.

§6.1-330.85 was amended to allow lenders to contract for a prepayment penalty on subordinate loans, of not more than 2% of the principal amount prepaid. However, a penalty cannot be charged 1) if the loan is refinanced or consolidated with the same lender (continued on Page 2)

Legislative Changes (continued)

(or a subsequent noteholder), or 2) if the loan is accelerated due to default. No prepayment penalty may be charged for a partial prepayment or in the case of an open-end credit plan where there is a payment of the balance without a demand to release the deed of trust.

There were also amendments to §6.1-416.1 of the Mortgage Lender and Broker Act: "Acquisition of control, application" and to Chapter 1.3, the "Consumer Real Estate Settlement Protection Act", so please review **all** of the changes in the 1998 Supplement to ensure compliance.



Consumer Finance Licensees:

We want to remind licensees of the acceptable method for correcting violations where insurance (credit life, accident & health, involuntary unemployment) is sold to borrowers without their written authorization. These violations must be corrected by mailing a detailed notice to the borrower explaining the nature of the error and requesting the borrower sign and return the notice indicating whether or not the insurance is to be canceled. The notice must also contain a description of the

insurance, the amount of the premium(s), a copy of the original disclosure statement containing the violation, a statement that the insurance is already included in the borrower's monthly payment, and a statement that cancellation will result in a full refund of the premium, PLUS INTEREST.

If the borrower chooses to cancel the insurance, full reimbursement (including accrued interest) must be made directly to the borrower by check – **NOT by credits to the borrower's account.**

This issue was initially discussed in a July 31, 1992 Memorandum which was sent to all consumer finance licensees. If you would like a complete copy of this memorandum, please call (804) 371-9701.

Virginia Regulations...now the Virginia Administrative Code:

Recently, the Bureau's Virginia Regulations were renamed and numbered, in order to adhere to prescribed guidelines for formulating and filing regulations with the Registrar of Regulations. The following list provides the "old" regulation number, along with the "new" administrative code number and name. A copy of the new administrative code sections pertaining to those industries the Bureau regulates will be sent to all licensees in the near future. In the meantime, you can access the administrative code through the SCC's website: www.state.va.us/scc

Chapter 50 Industrial Loan Associations:

Was VR 225-01-0501 now 10VAC5-50-10 "Disclosure on debt instruments; minimum amount and maturity"

VR 225-01-0502 now 10VAC5-50-20 "Surety bond upon all active officers"

VR 225-01-0503 now 10VAC5-50-30 "Schedule prescribing annual fees of industrial loan associations"

Chapter 60 Consumer Finance Companies:

Was VR 225-01-0601 now 10VAC5-60-10 “Establishing maximum rates, etc... [REPEALED]”

VR 225-01-0602 now 10VAC5-60-20 “Time limit for compliance”

VR 225-01-0603 now 10VAC5-60-30 “Allotment program loans, applicability, etc.”

VR 225-01-0604 now 10VAC5-60-40 “Rules governing open-end credit business in licensed CF offices”

VR 225-01-0605 now 10VAC5-60-50 “Rules governing real estate mortgage business in licensed CF offices”

VR 225-01-0606 now 10VAC5-60-60 “Schedule prescribing annual fees of consumer finance licensees”

Chapter 70 Sale of Non-Credit Related Life Insurance in Consumer Finance Office:

Was VR 225-01-0607§1 now 10VAC5-70-10 “Legal compliance”

VR 225-01-0607§2 now 10VAC5-70-20 “Separation of lending and insurance sales”

VR 225-01-0607§3 now 10VAC5-70-30 “Purchaser’s right to cancel”

VR 225-01-0607§4 now 10VAC5-70-40 “Compliance with insurance laws”

VR 225-01-0607§5 now 10VAC5-70-50 “Examination of records”

VR 225-01-0607§6 now 10VAC5-70-60 “Effect of chapter”

Chapter 80 Real Estate Settlement Agents:

(new) 10VAC5-80-10 “Definitions”

10VAC5-80-20 “Registration with Virginia State Bar”

10VAC5-80-30 “Financial responsibility requirements”

10VAC5-80-40 “Escrow accounts and audits”

10VAC5-80-50 “Unauthorized practice of law guidelines”

10VAC5-80-60 “Access to records”

10VAC5-80-70 “Parties not affected”

Chapter 100 Non-Profit Debt Counseling Agencies:

Was VR 225-01-1001 I now 10VAC5-100-10 “Activity requiring a license; powers and limitations”

VR 225-01-1001 II now 10VAC5-100-20 “Licensing”

VR 225-01-1001 III now 10VAC5-100-30 “Operation”

Continued on next page...



Chapter 160 Rules Governing Mortgage Lenders and Brokers:

Was VR 225-01-1601§1 now 10VAC5-160-10 “Definitions”

VR 225-01-1601§2 now 10VAC5-160-20 “Operating rules”

VR 225-01-1601§3 now 10VAC5-160-30 “Commitment agreements and lock-in agreements”

VR 225-01-1602 now 10VAC5-160-40 “Schedule prescribing annual fees paid...”

“Year 2000 Project”

On June 8, 1998 the Bureau sent out a questionnaire to all licensees to inquire about their Year 2000 compliance program. Commissioner Face has instructed the Bureau to make the Year 2000 compliance assessment a TOP PRIORITY. We want licensees to be aware of the potential problems (i.e.: computer systems, banking relationships, line of credit accounts) if assessments are not made and if appropriate corrective action is not taken.

The questionnaire was sent to all home office addresses and the completed forms are due by August 1, 1998. Contact the Bureau if you have not received the questionnaire. Please be sure to fill the form out completely – including your company’s licensed name and license number. If you have questions concerning this questionnaire, please call Dwight Stephens at (804) 371-9701.

Some of you have asked what the Bureau is doing to assess the Y2K problem. Currently the Bureau has completed the assessment phase of its systems and is in the process of remediating all applications and PC desktops (hardware and software). Other areas being addressed are telecommunications, supply chain issues, data exchanges, as well as facilities and embedded technology.

Y2K is a serious issue and is being reviewed not only at the technical systems level but also at the business level. The goal is to be fully functional in the new Millennium and to continue the business activity of regulating financial concerns.

The target end date for completing the Y2K project for the Bureau of Financial Institutions is June 30, 1999.



License Update:

The following is a list of companies who have surrendered their license, had their license revoked, application denied or been fined by the Commission **since March 1, 1998**. We hope this will be helpful in keeping track of companies with whom you do business. **These lists are accurate as of June 30, 1998**, so call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605, which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE MARCH 1, 1998

MLB – 6 COLLATERAL MORTGAGE LTD. – 3/2/98

MB – 357 WHOLESALE MORTGAGE CENTERS,
INC. – 3/2/98

MB – 833 MONTAGUE MAURY ATKINS – 3/2/98

MB – 10 P & A MORTGAGE BANKERS, INC. –
3/10/98

MB – 906 NEAL ANTHONY ASKEW -3 /11/98

MB – 537 AMERICAN FINANCE & INVESTMENT,
INC. – 3/23/98

1998**SURRENDERED (continued)**

- | | |
|---|--|
| MB – 880 TRANSATLANTIC MORTGAGE COMPANY, LTD D/B/A THE PROCESSING CENTER – 3/23/98 | MB – 437 DOMINION SHARES MORTGAGE CORPORATION T/A DOMINION BANKSHARES MORTGAGE – 5/4/98 |
| MLB – 302 WESTERN FREEDOM MORTGAGE CORPORATION (USED IN VA BY FREEDOM MORTGAGE CORPORATION) – 3/26/98 | MB-496 RICK A. STRICKLER – 5/4/98 |
| ML – 194 FINANCE AMERICA CORPORATION OF MARYLAND (USED IN VA BY FINANCE AMERICA CORPORATION) – 4/1/98 | MB – 360 MODERN MORTGAGE, INCORPORATED – 5/4/98 |
| MLB – 328 FIRST EQUITY MORTGAGE INCORPORATED d/b/a AMERICAN EQUITY MORTGAGE, INC. – 4/1/98 | MB – 442 RALPH J. TREMAGLIO, JR. D/B/A TREM MORTGAGE COMPANY – 5/7/98 |
| MLB – 422 TRADITIONAL MORTGAGE CORPORATION – 4/7/98 | MB – 1041 FORBES MORTGAGE, LLC – 5/19/98 |
| MB – 953 THE AMERIFIRST CORPORATION D/B/A THE AMERIMAP MORTGAGE COMPANY – 4/17/98 | MLB – 394 THE LEADER MORTGAGE COMPANY, INC. – 5/20/98 |
| MB – 983 AMERICAN NATIONAL MORTGAGE ASSOCIATION, INC. – 4/23/98 | MB – 741 MORTGAGE FACTORS, INC. – 5/28/98 |
| MB – 752 AMERICAN BANKERS MORTGAGE CORPORATION – 4/28/98 | MB – 692 BEST MORTGAGE, INC. – 6/9/98 |
| MB – 112 MORTGAGE COMPANY OF AMERICA, INC. – 4/30/98 | MLB - 275 1 ST POTOMAC MORTGAGE CORPORATION – 6/11/98 (NOW KNOWN AS ISLAND MORTGAGE NETWORK – MLB -503) |
| MB – 970 CAPITAL SEEKERS INC. – 4/30/98 | MLB – 452 HOMEOWNERS MORTGAGE & EQUITY, INC. – 6/15/98 |
| | MB – 1076 1 ST INNOVATIVE MORTGAGE CORPORATION – 6/23/98 |

MORTGAGE APPLICATIONS DENIED SINCE MARCH 1, 1998

- | | |
|--|---|
| MB – 1131 ALTUS MORTGAGE CORPORATION – DENIED – 3/2/98 | MB – 1190 MARATHON CAPITAL INVESTMENT CORPORATION d/b/a C&P MORTGAGE COMPANY – DENIED – 6/19/98 |
|--|---|

MORTGAGE LICENSE REVOCATIONS SINCE MARCH 1, 1998

- ML – 261 UNITED NATIONAL MORTGAGE CORPORATION D/B/A NETWORK 1 MORTGAGE ACCESS GROUP – 5/14/98 – FAILURE TO FILE ANNUAL REPORT
- MB – 18 REALTY FINANCIAL SERVICES, INC. – 5/14/98 – FAILURE TO FILE ANNUAL REPORT
- MB – 457 WALDEN T. HUNTER, JR. T/A HUNTER MORTGAGE AND FINANCIAL SERVICES – 5/14/98 – FAILURE TO FILE ANNUAL REPORT
- MB – 644 C U MORTGAGE CENTRE, INC. – 5/15/98 – FAILURE TO FILE ANNUAL REPORT
- MB – 857 WASHINGTON FUNDING CORPORATION – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

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MLB – 365 1ST AND 2ND MORTGAGE COMPANY OF NJ, INC. – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MORTGAGE LICENSE REVOCATIONS (continued)

MB – 651 COMMONWEALTH MORTGAGE CORPORATION – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MLB – 402 ORION FINANCIAL SERVICES, INC. – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MB – 279 SAMSON UNIVERSAL MORTGAGE CORPORATION D/B/A SUMCO MORTGAGE PROCESSING CENTERS – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MB – 1011 CAPITOL FUNDING, INC. – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MLB – 40 FIRST DOMINION MORTGAGE CORPORATION – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MB – 503 MORTGAGE CORP (USED IN VA BY MORTGAGE CORPORATION OF AMERICA INC.) – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MB – 589 METROPOLITAN MORTGAGE CORPORATION – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

MB – 472 N. THOMAS POFF – 5/15/98 – FAILURE TO FILE ANNUAL REPORT

PENALTIES PAID BY MORTGAGE LICENSEES SINCE MARCH 1, 1998

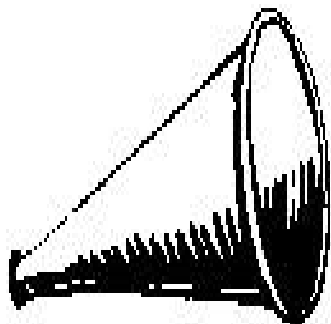
MLB – 413 IMPERIAL HOME LOAN, INC. – 5/27/98 – PAID \$300 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO BRANCH RELOCATION

MLB – 349 HOME LOAN CORPORATION – 3/10/98 – PAID \$300 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO BRANCH RELOCATION

**Orientation for New Mortgage Licensees:**

The next session of our orientation for new mortgage licensees will be held on August 17, 1998. Companies who were licensed between April 1 and June 30, 1998 will be receiving information concerning the orientation. The orientation begins at 9:30 a.m. and goes until around 4:30 p.m. Licensees who were unable to attend previous sessions are also encouraged to register for the August session. Space is limited, so priority will be given to those companies licensed in the past year.

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan and non-profit debt counseling agency licensees and other interested parties. We encourage you to read each newsletter and distribute the information to all staff members. Comments and suggestions are appreciated!!!



Annual Report Correction: The following mortgage broker information was inadvertently omitted from the "Supplement to the 1997 Annual Report of the Bureau of Financial Institutions":

MB – 321 Mortgage One, Inc.

CEO – Daniel Rebibo, President

6290 Montrose Road, Rockville, Maryland 20852

Authorized 12/20/1989

We apologize for any inconvenience this may have caused.

Mortgage Facts:

- The Bureau has received inquiries regarding the use of multiple assumed or fictitious names by licensees. It is the Bureau's position that only one fictitious name is allowed, that name, as well as the licensee's legal name, must be shown on the license issued by the Commission.
- Overcharge violations have been cited on home equity lines of credit where a broker fee or origination fee was charged on the amount of the line of credit when no advance (or a partial advance) of funds was made. The amount of money advanced is considered the loan amount. Thus, if only \$10,000 of a \$50,000 line of credit is advanced, points can only be charged on \$10,000, or if no money is advanced, no loan has been made and no such fees may be charged.
- It is the Bureau's opinion that companies, which, for compensation, perform telephonic solicitations of interest from prospective "mortgage loan" borrowers must obtain a mortgage broker license. Virginia Code §6.1-409 broadly defines a mortgage broker as any person who directly or indirectly negotiates, places or finds mortgage loans for others. NOTE: This topic was previously discussed in the June 1996 edition of this newsletter.

IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations(804) 371-9701

Licensing.....(804) 371-9690

Consumer Complaints.....(804) 371-9705



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Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk's Office.....(804) 371-9733

FAX Number for the Bureau of Financial Institutions.....(804) 371-9416



SCC's Website" "www.state.va.us/scc"

...check it out!

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**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**